InWest Retirement Solutions

INNOVATIVE SOLUTIONS SINCE 1983

Retirement Plan Design

The Workplace Retirement Plan Resource

Key Terms in Compliance Testing

Highly Compensated Employee (HCE)

An IRS term used to describe any employee who is a greater than 5% owner, certain family members of a greater than 5% owner (spouse, parent, child, grandparent), or any employee who received plan compensation in excess of $160,000 in 2025.

ADP Test

The nondiscrimination test applied to employee 401(k) contributions. The test compares the actual deferral percentage (ADP) of Highly Compensated Employees with that of non-HCEs. In general, only a 2% point gap is allowed between the average contribution rates of HCE and non-HCE. Failure of the ADP Test can result in refunds to the HCE.

ACP Test

The nondiscrimination test applied to employer matching contributions. The test compares the actual contribution percentages (ACP) of Highly Compensated Employees with those of non-HCEs. In general, only a 2% point gap is allowed between the average contribution rates of HCE and non-HCE. ACP Test failure can result in refunds to the HCE.

Key Employee

A DOL term used to describe any employee who is a greater than 5% owner, a greater than 1% owner with annual compensation in excess of $150,000, or any officer receiving compensation over $235,000.

Top Heavy Plan

A qualified plan is considered “Top-Heavy” if the value of the Key Employees’ benefits under the plan is greater than 60% of total plan benefits. If a plan is top-heavy and a key employee receives a benefit under the plan, this will trigger a required top-heavy minimum employer contribution of up to 3% of plan compensation paid to all non-key employees.

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Automatic Enrollment

INTRODUCTION

Automatic enrollment allows an employer to automatically deduct elective deferrals from an employee's wages unless the employee chooses not to contribute or contribute a different amount. Employers must choose an investment for employees' automatically deducted salary deferral contributions. You can limit your liability for plan investment losses by choosing default investments for deferrals that meet criteria for transferability and safety, such as a life-cycle fund or a balanced fund (Qualified Default Investment Alternative, QDIA). Your employees must be given an opportunity to change their investment choices.

The SECURE 2.0 Act generally requires plans with an initial effective date after 12/29/2022 to adopt automatic enrollment beginning no later than 1/1/2025. The automatic deferral rate must be at least 3% and increase annually to at least 10%, but no more than 15%. Employers can avoid the required annual escalation by setting their initial automatic deferral rate to at least 10%.

TYPES OF AUTOMATIC ENROLLMENT

Employers may choose from four types of automatic enrollment arrangements:

Basic Automatic Contribution Arrangement (ACA) —The Plan document specifies the percentage of wages that will be automatically deducted and any annual escalation that will be applied. At the employer's discretion, an ACA can be added mid-year and applied to both new and existing employees.

Eligible Automatic Contribution Arrangement (EACA) : The Plan document specifies the percentage of wages that will be automatically deducted and any annual escalation applied. An EACA can only be added at the beginning of the plan year and applies to both new and existing employees. Employees can be permitted to withdraw their first EACA contribution within 30-90 days after it was withheld from wages. The ADP/ACP test correction deadline is extended from 2.5 months after the plan year-end to 6 months after the plan year-end.

Qualified Automatic Contribution Arrangement (QACA) – Employer adopts an automatic enrollment feature that satisfies the definition of a Qualified Automatic Contribution Arrangement (QACA). A QACA is a Safe Harbor design allowing a plan to avoid ADP/ACP nondiscrimination testing.

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Safe Harbor 401(k)

INTRODUCTION

The adoption of safe-harbor provisions allows 401(k) plan sponsors to avoid the actual deferral percentage (ADP) and actual contribution percentage (ACP) tests for employer contributions. These non-discrimination tests are deemed satisfied if the employer agrees to make certain contributions for plan participants. In other words, safe-harbor adoption will allow 401(k) participants (including Highly Compensated Employees) to defer up to the maximum IRS limit without fear of failing the non-discrimination test.

SAFE-HARBOR CONTRIBUTION REQUIREMENTS

Employers may choose from three types of contributions to satisfy safe-harbor provisions and receive ADP/ACP test relief. These contributions also meet the minimum contribution requirements for Top Heavy plans.

Non-Elective Contribution—The Employer contributes 3% of pay for each eligible employee, regardless of whether the employee chooses to make 401(k) deferrals.

Matching Contribution—The Employer matches 100% of the first 3% of employee deferrals plus 50% of the next 2% of employee deferrals. Employers can also elect an enhanced safe-harbor match (i.e., a 100% match on the first 4% of employee deferrals).

QACA Matching Contribution —The Employer adopts an automatic enrollment feature that meets the Qualified Automatic Contribution Arrangement (QACA) definition.

Participants become 100% vested in all safe-harbor non-elective and matching contributions as soon as they are made. QACA contributions can be made subject to a 2-year cliff vesting schedule.

SAFE-HARBOR DEADLINES

New plan sponsors wishing to adopt safe-harbor must offer the plan for at least three months during its initial plan year. For example, plan sponsors adopting a calendar-year plan must establish safe-harbor provisions on or before October 1st. Existing plan sponsors wishing to add a matching version of safe-harbor must amend their plan document and provide a safe-harbor participant notice at least 30 days before the beginning of the plan year for which safe-harbor is being adopted. Existing plan sponsors wishing to add the non-elective version of safe-harbor can generally do so up until 30 days before the end of the plan year for which safe-harbor is being adopted.

Safe Harbor 401(k)

QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENT

Plan sponsors can meet Safe-Harbor by adopting an automatic enrollment feature that satisfies the definition of a Qualified Automatic Contribution Arrangement (QACA). The requirements of a QACA are discussed below.

AUTOMATIC DEFERRAL REQUIREMENTS FOR A QACA

The automatic enrollment percentage under a QACA must be set between 3% and 15% of compensation. If the initial rate is set at less than 6%, then the initial percentage must be no less than the following minimum percentage requirements:

1) 3% for the period beginning with the first automatic contribution and ending on the last day of the plan year following the plan year of the first automatic contribution.
2) 4% during the first plan year following the period described in (1)
3) 5% during the second plan year following the period described in (1) and
4) 6% during the third year following the period described in (1)

For example, if an employee is auto-enrolled on 1/1/2026, then the minimum percentage can be set at 3% until 12/31/2027. It must then be increased to at least 4% in 2028, at least 5% in 2029, and at least 6% in 2030. *For plans installed after 12/29/2022, the SECURE 2.0 Act may require annual escalations of at least 1% until the minimum percentage reaches at least 10% and at most 15%.*

Due to the administrative complexities of increasing plan deferral contributions as described above, we suggest that employers consider setting an initial automatic enrollment percentage of at least 10%.

BASIC MATCHING FORMULA REQUIREMENTS FOR A QACA

Under a QACA, the Employer matches 100% of the first 1% of compensation deferred by the employee, plus 50% of the next 5% deferred. Thus, the maximum required match is 3.5% of compensation. This compares to the maximum non-QACA Safe-Harbor Match of 4% of compensation.

VESTING REQUIREMENTS FOR A QACA

Employer matching contributions under a QACA Safe-Harbor must be 100% vested for any employee who has completed at least 2 years of service. This compares to 100% immediate vesting of employer contributions under a non-QACA Safe-Harbor plan.

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New Comparability Profit Sharing

WHAT IS A NEW COMPARABILITY PLAN?

A new comparability plan is generally a profit-sharing provision in which the contribution percentage formula for one category of participants is higher or different from that for other categories. The plan is tested under the cross-testing rules to satisfy the nondiscrimination requirements.

WHAT DOES CROSS-TESTING MEAN?

A qualified retirement plan may not discriminate in favor of highly compensated employees concerning the amount of contributions or benefits. Whether a defined contribution plan satisfies this requirement is generally determined by the amount of contributions. As an alternative, however, a plan may be tested against the equivalent amount of benefits or the Equivalent Benefit Accrual Rate (EBAR). For example, a 50-year-old business owner's EBAR would be considerably less than a 25-year-old employee's EBAR if they both received the same percentage of pay contribution. Cross-testing would allow the sponsor to demonstrate that the owner should receive a higher percentage of the pay contribution (or the employee a lower percentage) to receive an equivalent benefit at retirement.

WHO SHOULD CONSIDER A NEW COMPARABILITY PLAN?

This design is appropriate for plan sponsors looking to increase business owner or key employee contribution rates affordably. A traditional allocation formula would require every eligible employee to receive a uniform contribution as a percentage of pay. A new comparability formula allows employers to divide eligible employees into multiple groups and assign different contribution amounts to each group. Some sponsors use this design as an incentive plan, tying company performance goals to plan contribution rates.

A new comparability plan design works best when the group(s) targeted for increased plan contributions are older and better paid than the average plan participant.

New comparability is often a great addition to a new or existing Safe-Harbor 401(k) Plan.

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Super Safe Harbor 401(k) Plan

OVERVIEW

A Super Safe-Harbor 401(k) Plan combines a Safe-Harbor 401(k) Plan design along with a New Comparability Profit Sharing Plan. A Super Safe-Harbor 401(k) Plan often allows the sponsor to target a specific employee (a business owner) or a group of employees for higher plan contributions.

SAFE-HARBOR 401(k) PLUS…

We typically use the Non-Elective version of Safe-Harbor, which requires the employer to make a 3% contribution of pay to all plan-eligible employees. This contribution not only satisfies Safe-Harbor requirements (allowing Highly Compensated Employees to maximize their personal plan deferrals), but it can also be used to pass the non-discrimination testing for a New Comparability Profit Sharing allocation.

NEW COMPARABILITY PROFIT SHARING

A New Comparability allocation formula allows the sponsor to create multiple employee groupings and potentially give each group a different percentage of salary. These groupings are often determined based on job classification or title.

This design is appropriate for plan sponsors looking to increase business owner or key employee contribution rates affordably. Some sponsors use this design as an incentive plan, tying company performance goals to plan contributions.

Sample Company USA

Retirement Plan Illustration for the Plan Year Ending 12/31/2026

Non-Elective Safe Harbor 401(k) Plan with New Comparability Profit Sharing

Employee Name	DOB	DOH	Plan Comp	HCE/ Key	Employee[1] Deferral $	Employee[1] Deferral %	Safe Harbor[2] Non-Elective $	Safe Harbor[2] Non-Elective %	Discretionary[3] Profit Sharing $	Discretionary[3] Profit Sharing %	Employer Total $	Employer Total %	Total Contribution $	Total Contribution %
Owner	11/8/64	6/1/92	360,000	Y/Y	**35,750**	9.93%	-	0.00%	47,500	13.19%	47,500	13.19%	**83,250**	23.13%
Group A Totals			360,000		35,750		-		47,500		47,500		83,250	
Staff #1	4/3/87	1/16/12	65,000	N/N	-	0.00%	1,950	3.00%	910	1.40%	2,860	4.40%	2,860	4.40%
Staff #2	7/2/88	1/15/13	38,000	N/N	-	0.00%	1,140	3.00%	532	1.40%	1,672	4.40%	1,672	4.40%
Staff #3	1/10/85	5/1/11	34,000	N/N	-	0.00%	1,020	3.00%	476	1.40%	1,496	4.40%	1,496	4.40%
Group B Totals			137,000		-		4,110		1,918		6,028		6,028	
Company Totals			497,000		35,750		4,110		49,418		53,528		89,278	

Tax Analysis	
Total Owner Contribution	89,278
Estimated Tax Rate	32.0%
Estimated Tax Savings	**28,569**
Staff Contribution (Group B)	6,028
Tax Savings After Staff Contribution	**22,541**

	Employer Total $	Employer Total %	Total Contribution $	Total Contribution %
Contributions to Owners	**47,500**	**88.7%**	**83,250**	**93.2%**
Contributions to Staff	**6,028**	**11.3%**	**6,028**	**6.8%**

Key Employees	83,250	**93.2%**
Top-Heavy 2026 - Safe Harbor Satisfies		

Assumptions:

Eligibility equals Age 21 and One Year of Service (12 Months plus 1,000 Hours) with Semi-Annual Plan Entry Dates (1/1 and 7/1).

Highly Compensated Employee (HCE) defined as >5% owners, certain family members of >5% owners and/or employees earning over $160,000 in 2025.

Key Employee defined as >5% owners or >1% owners with annual compensation in excess of $150,000 or any officer receiving compensation in excess of $235,000.

This information is not intended to provide tax or legal advice. Please consult a tax or legal professional as necessary.

Notes:

(1) HCE Deferrals illustrated at IRS Maximum.

(2) Safe Harbor Non-Elective equals 3% of plan compensation payable to all eligible Non-HCE. Contribution subject to full and immediate vesting.

(3) Discretionary Profit Sharing cross-tested to achieve maximum allocation rate disparity between Group A and Group B. Contribution can be made subject to a vesting schedule.

Safe Harbor Allows Maximum HCE Deferrals - Requires an Annual Contribution & Immediate Vesting

Profit Sharing Provides IRS Maximum Benefit to Owner - Vesting Schedule Permitted (Max 3-Year Cliff or 6-Year Graded)

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Cash Balance Plan - Overview

OVERVIEW

A Cash Balance Plan is a type of Defined Benefit Plan. It is not an Individual Account Plan (Defined Contribution Plan) because each participant's benefits are not determined by the performance of the assets held in that participant's individual account. However, it appears to be an Individual Account Plan (such as a Profit Sharing Plan) because the benefits are tied to a Hypothetical Cash Balance Account. Because a Cash Balance Plan exhibits some characteristics of both Defined Benefit Plans and Defined Contribution Plans, it is often called a hybrid plan.

NEW COMPARABILITY CASH BALANCE PLANS

While most Cash Balance Plans use a uniform formula to allocate employer contributions, a New Comparability Cash Balance Plan targets specified participants (business owners and/or other key employees) with specified allocation amounts. In contrast, other employees receive a uniform allocation level. The overall allocation is chosen so that the resulting benefits pass the general nondiscrimination tests required under IRC 410(b) and 401(a)(4).

This formula structure is the same as for New Comparability Profit Sharing Plans. The difference is that the Cash Balance Plan is, in fact, a Defined Benefit Plan and can permit much larger benefit levels than is possible under the $72,000 Profit Sharing Plan limit.

ARE YOU A CANDIDATE FOR A CASH BALANCE PLAN?

A New Comparability Cash Balance Plan is most useful when the following criteria are met:

- The retirement benefit and tax savings goals of the employer are higher than permitted by a 401(k)/profit sharing plan
- Employer income and cash flows are stable or growing
- The employer desires to target owners/key employees to receive higher benefit levels than the general staff
- Targeted owners/key employees are approaching retirement age
- The staff is younger than the targeted owners/key employees

CONTACT US FOR A CUSTOMIZED PROPOSAL

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Cash Balance Plan – Key Points

PAY AND INTEREST CREDITS

In a cash balance plan, although the plan assets are pooled into one account and trustee-directed, a "theoretical" account balance (or "TAB") is maintained on behalf of each participant. Each year, a participant's TAB is credited with a "pay credit" and an "interest credit." Pay Credits: The pay credits can be a flat dollar amount, a percentage of pay, or, most commonly, a combination of the two. Interest Credits: Interest credits are applied annually to a participant's beginning-of-year TAB. The pay and interest credits are guaranteed to the participant, meaning the amount the participant will receive from the plan is defined. The ultimate benefit paid to a participant from a cash balance plan is equivalent to the balance in their theoretical account – i.e., the accumulation of pay and interest credits – at the time of distribution.

VESTING

A 3-year cliff vesting schedule applies to each participant's TAB (i.e., 0% vesting until attainment of three years of service, at which time 100% vesting occurs).

REQUIRED ANNUAL CONTRIBUTIONS

Cash balance plans are a type of defined benefit plan. As such, they are subject to annual minimum funding requirements to ensure sufficient funds are available to cover the retirement benefits promised to the business's employees and principals. An enrolled actuary determines the required funding amount to meet these guaranteed benefits annually.

Thus, by electing to adopt a cash balance plan, you are committing to making annual tax-deductible contributions to the plan. Furthermore, if you also sponsor a 401(k)/profit sharing plan, where the profit sharing contributions for your staff have historically been optional, that will no longer be the case. With the addition of a cash balance plan, a minimum profit sharing contribution will be required for the non-highly compensated employees (NHCEs).

PLAN PERMANENCY REQUIREMENT

The IRS requires all qualified retirement plans, such as the cash balance plan you are considering, to be "permanent in nature". While "permanent in nature" is not specifically defined in the Code or regulations, it is reasonable to conclude that the plan sponsor should intend to sponsor and fund the cash balance plan annually for a minimum of five (5) tax years, absent a significant change in circumstances not foreseen at the time of plan adoption.

POTENTIAL LIMITATIONS ON DISTRIBUTIONS

The law imposes limits on distributions from underfunded cash balance plans. Under such rules, plans that do not meet certain funding levels are prohibited from paying lump sum distributions until they are adequately funded. Departing employees continue to receive interest credits until distribution can take place.

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DCDB Combo Plans

OVERVIEW

A **Defined Contribution/Defined Benefit Combination Plan** or **DCDB Combo Plan** allows the plan sponsor to offer a two-tiered approach to saving for retirement. In a DCDB Combo Plan design, a retirement benefit level is established in the defined benefit plan based on age, service, and/or compensation. This benefit is then coordinated or offset with an employer contribution into the defined contribution plan (401(k)/profit sharing plan).

This plan design can produce dramatic tax savings for the employer and allow the business owner and/or key employees to receive significant retirement benefits. It also offers affordable staff funding costs for even large employers.

ARE YOU A CANDIDATE FOR A DCDB COMBO PLAN?

- Owner Age 45 plus
- Owner Compensation over $150,000
- Stable/Reliable Business Income
- Desire substantial tax savings
- Need to grow retirement savings rapidly
- Desire to protect assets from creditors
- Owner looking to monetize the business or create a succession plan
- Desire an affordable staff funding level (even for large employers)

CONTACT US FOR A CUSTOMIZED PROPOSAL

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Sample Company USA

Retirement Plan Illustration for the Plan Year Ending 12/31/2026

Safe Harbor 401(k) Plan + New Comparability Cash Balance Plan

Employee Name	DOB	DOH	Plan Comp	HCE/ Key	Employee Deferral $	Employee Deferral %	Safe Harbor[1] Non-Elective $	Safe Harbor[1] Non-Elective %	Employer Profit Sharing $	Employer Profit Sharing %	Cash Balance Plan $	Cash Balance Plan %	Employer Total $	Employer Total %	Total Contribution $	Total Contribution %
Owner 1	11/8/64	1/1/04	360,000	Y/Y	35,750	9.93%	-	0.00%	10,188	2.83%	183,396	50.94%	193,584	53.77%	229,334	63.70%
Owner 2	5/3/70	11/1/05	360,000	Y/Y	32,500	9.03%	-	0.00%	10,188	2.83%	163,019	45.28%	173,207	48.11%	205,707	57.14%
Group A Totals			720,000		68,250		-		20,376		346,415		366,791		435,041	
Staff 1	9/29/93	3/11/13	22,391	N/N	-	0.00%	672	3.00%	672	3.00%	448	2.00%	1,791	8.00%	1,791	8.00%
Staff 2	2/8/83	4/17/13	27,704	N/N	-	0.00%	831	3.00%	831	3.00%	554	2.00%	2,216	8.00%	2,216	8.00%
Staff 3	4/3/92	3/28/11	27,698	N/N	1,200	4.33%	831	3.00%	831	3.00%	554	2.00%	2,216	8.00%	3,416	12.33%
Group B Totals			77,793		1,200		2,334		2,334		1,556		6,224		7,424	
Company Totals			797,793		69,450		2,334		22,710		347,971		373,015		442,465	

	Employer Total $	Employer Total %	Total Contribution $	Total Contribution %
Contributions to Owners	**366,791**	**98.3%**	**435,041**	**98.3%**
Contributions to Staff	**6,224**	**1.7%**	**7,424**	**1.7%**

Tax Analysis	
Total Owner Contribution	441,265
Est. Owner Tax Rate	32.0%
Est. Owner Tax Savings	**141,205**
Staff Contribution (Non-Owner)	6,224
Tax Savings After Staff Contribution	**134,981**

Assumptions:

Eligibility equals One Year of Service (12 Months and 1,000 Hours) with Semi-Annual plan entry dates (1/1 and 7/1).

Highly Compensated Employee (HCE) defined as >5% owners, certain family members of >5% owners and/or employees earning over $160,000 in 2025.

Key Employee defined as >5% owners or >1% owners with annual compensation in excess of $150,000 or any officer receiving compensation in excess of $235,000.

This information is not intended to provide tax or legal advice. Please consult a tax or legal professional as necessary.

Notes:

(1) Safe Harbor Non-Elective contribution equals 3% of plan compensation to all Non-HCE. Contribution subject to full and immediate vesting.

Plan Design Produces Significant Tax Savings and Retirement Benefits for the Business Owners

DCDB Combo Plan Design Imposes an Annual Contribution Requirement on the Plan Sponsor

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Solo 401(k) Plan

FEATURES & BENEFITS

A Solo 401(k) can be established for incorporated or unincorporated businesses that employ only owners and spouses (no other employees). A Solo 401(k) may allow small business owners to shelter a greater portion of their income from taxes than conventional business retirement plans such as SIMPLE and SEP plans.

Solo 401(k) benefits include:

- Salary deferral contributions of up to the lesser of 100% of plan compensation or $24,500
- After-Tax ROTH 401(k) contributions possible regardless of income level
- Catch-up contributions of an additional $8,000 for individuals age 50 or older or $11,250 for those ages 60 to 63
- Discretionary employer contributions of up to 25% of earned income (limited to $72,000 in 2026)
- Tax-deductible/tax-deferred contributions
- IRA and qualified plan rollovers accepted
- Loans up to 50% of the vested account balance ($50,000 max)

Employers wishing to adopt a Solo 401(k) should complete and return the Solo(k) Data Collection & Pricing form to InWest Retirement Solutions via e-mail at info@inwest.net. If you have questions, please call 1-800-594-7700.

COMPARISON TO SEP

Contributions	Solo 401(k)	SEP
401(k) Deferral	$35,750	$0
Employer*	$18,587	$18,587
Total	**$54,337**	**$18,587**

*Based on $100,000 Net Schedule C income.

This information is not intended to provide tax or legal advice. Please consult a tax or legal professional as necessary.

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Solo Defined Benefit Plan

INTRODUCTION

Our Solo Defined Benefit Plan (Solo DBP) offers an excellent opportunity for owner-only businesses to save on taxes and build a significant tax-preferred retirement account.

KEY BENEFITS

Rapid Asset Accumulation: A Solo DBP can allow annual contributions over $150,000. It can also be paired with our Solo 401(k) plan to form a Solo DB(k) Plan, which allows participants to make additional discretionary contributions of up to $57,350 in 2026.

Tax Savings: All Solo DBP contributions are tax-deductible, and plan assets grow tax-deferred.

Creditor Protection: Assets in a Solo DBP plan enjoy protection from creditors under ERISA.

Flexible Investment Options: You and your investment professional can choose the investment strategy and products that are right for you.

Spouses Enhance the Plan: Adding the business owner’s spouse is free and can increase tax savings and retirement benefits.

ARE YOU A CANDIDATE FOR A SOLO DB PLAN?

- ✓ Age 40 or older with Plan Compensation of at least $150,000
- ✓ Stable/Reliable income – DBP requires annual employer contributions
- ✓ Desire substantial tax savings – DBP should be funded for at least 5 years
- ✓ Desire to contribute more than $72,000 to a retirement plan
- ✓ Desire to protect assets from creditors

Solo DB(k) Plan Design Illustration

Employee Name	Age	Plan Comp	Employee Deferral $	Employee Deferral %	Discretionary Profit Sharing $	Discretionary Profit Sharing %	Defined Benefit $	Defined Benefit %	Employer Total $	Employer Total %	Total Contribution $	Total Contribution %
Owner	60	360,000	35,750	9.93%	21,600	6.00%	239,134	66.43%	260,734	72.43%	**296,484**	82.36%

Tax Analysis	
Total Owner Contribution	296,484
Estimated Tax Rate	32.0%
Estimated Tax Savings	**94,875**

This information is not intended to provide tax or legal advice. Please consult a tax or legal professional as necessary.

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Fiduciary Solutions

By default, in most retirement plans, the Employer assumes the roles of both the ERISA 402(a) Named Fiduciary and the ERISA 3(16) Plan Administrator.

***ERISA 402(a) Named Fiduciary** – The party with authority to control and manage the operation and administration of the plan.*

***ERISA 3(16) Plan Administrator** – The party responsible for managing the plan's day-to-day operations, including execution of Form 5500.*

Most employers are unaware of their duties as 402(a) Named Fiduciaries and 3(16) Plan Administrators. The DOL has significantly increased its ERISA enforcement efforts. In addition, many major ERISA fiduciary breach cases have been settled in the courts, and many others are pending.

The good news is that ERISA permits Employers to outsource most of their responsibilities as retirement plan fiduciaries!

InWest has partnered with Fiduciary Wise to offer employers an ERISA 402(a) and 3(16) Fiduciary outsourcing solution.

FIDUCIARY WISE

Our solution offers:

- **Strongest Mitigation of ERISA Fiduciary Liability**
- Replaces Employer as 402(a) Named Fiduciary
- Replaces Employer as 3(16) Administrator
- Partners with Existing Plan Service Providers
- Conducts and Documents Administrative Committee Meetings
- Annually Oversees 50+ ERISA Fiduciary Responsibilities
- Provides Annual Procedural Prudence Certification

Key Provisions SECURE 2.0

Effective 1/1/2023

- **Mandatory**. The Required Minimum Distribution (RMD) age increases to 73 and to 75 in 2033. Hard cut-off based on birthday (age 72 before 2023 = age 72; turn 73 before 2033 = age 73; age 74 after 2032 = age 75). The penalty for failure to take an RMD is reduced from 50% to 25%. This penalty is further reduced to 10% if corrected within a two-year correction window.

- **Optional but Recommended**. Tax Credits for New Plans Increased Significantly. See the attached "Tax Credits for Employers under SECURE 2.0" supplement.

- **Optional but Recommended**. Self-Certification of Deemed Hardship Conditions. In determining whether a distribution qualifies as an employee hardship, the plan administrator may rely on the employee's certification that the distribution is due to an eligible hardship/emergency, not in excess of the amount needed, and no alternative means exist to satisfy the need.

- Optional. Treatment of Employer Contributions as Roth Contributions. Plan Sponsor may permit an employee to designate matching or non-elective/profit-sharing contributions as designated Roth contributions. Further guidance from the IRS is needed before this provision should be considered for adoption.

- Optional. Small Immediate Financial Incentives for Contributing to a Plan. Allows de minimis financial incentives for employees "who elect to have [deferrals made]." The plan cannot pay for incentives. De minimis is not defined.

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Key Provisions SECURE 2.0

Effective 1/1/2024

- **Mandatory**. Long-Term Part-Time (LTPT) Employees Plan Eligible. This provision was included in the original SECURE Act. Requires part-time employees who work for at least 500 hours per year for three (3) years to be eligible to make employee contributions. Service before 2020 is ignored. Employer contributions to LTPT employees are optional. Inclusion of LTPT employees in non-discrimination testing is optional.
- **Optional but Recommended**. Safe-Harbor for Corrections of Employee Deferral Failures. Allows employers to correct inadvertent auto-enrollment errors within 9½ months after the end of the year in which the error occurs without making up missed deferrals.
- **Optional but Recommended**. Involuntary Cash-out Limit Increased from $5,000 to $7,000.
- Optional. Top-Heavy Rules Changed. Excludable employees, defined as those who do not meet the minimum age (21) and service requirements (One Year) under the Code, may be tested separately from non-excludable employees when determining whether the plan is considered top-heavy.
- Optional. Student Loan Matching Program. This program allows employers to match student loan payments as if they were elective deferrals. Employers may rely on employee certification regarding loan payment amounts. Employee loan repayments are not treated as deferrals. The employer contribution is treated as a match but can be tested separately for non-discrimination.
- Optional. Emergency Savings Accounts. Employers may offer Non-HCE emergency savings accounts and automatically enroll employees in them, with contributions limited to no more than 3% of their salary. Accounts are capped at $2,500. Contributions are funded as Roth contributions and are treated as elective deferrals for purposes of retirement matching contributions.

Key Provisions SECURE 2.0

Effective 1/1/2025

- **Mandatory**. Automatic Enrollment Required. All new 401(k) and 403(b) plans adopted after 12/29/22, except businesses with fewer than eleven employees, new companies less than three years old, and churches and governments, must automatically enroll participants at 3%-10% and increase the rate by one percent per year to at least 10%, but no more than 15%. Employees would have at least 90 days to opt out and take a distribution of any automatic deferrals. More guidance is possible.
- **Mandatory**. Long-Term Part-Time (LTPT) Employee Definition Changed. Requires part-time employees who work for at least 500 hours per year for two (2) years to be eligible to make employee contributions. Service before 2023 is ignored. Employer contributions to LTPT employees are optional. Inclusion of LTPT employees in non-discrimination testing is optional.
- **Optional but Recommended**. Catch-Up Limits Increased at Certain Ages. Raises catch-up contributions to a greater of $10,000 or 150% of the regular catch-up limit in years in which the participant would attain age 60 through 63. Indexed after 2025. More guidance is possible.

Key Provisions SECURE 2.0

Effective 1/1/2026

- **Mandatory**. Catch-Up Contributions Required to Be Roth. DELAYED IMPLEMENTATION FROM 1/1/24 BY IRS. Catch-up contributions must be designated as Roth contributions for Participants with wages greater than $145,000 (indexed) in the prior year. Participants earning $145,000 or less must have a Roth option for catch-up contributions. If your plan doesn't presently offer Roth deferrals, please get in touch with us to discuss your options.

- **Mandatory**. Plan document amendments to conform with SECURE 2.0 must be made by the end of 2026 if the plan operates in accordance with such amendments as of the effective date of the bill requirement or amendment. SECURE 2.0 also extends the amendment deadline for the SECURE Act and CARES Act to the end of 2026.

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New Plan Tax Credits SECURE 2.0

While the original SECURE Act increased tax credits for new employer plans, SECURE 2.0 significantly increased the available tax credits—including some that could cover the costs of operating/administering a plan for up to three years. Here is an overview of these employer tax credits:

SIZE OF EMPLOYER	START-UP COST TAX CREDIT	EMPLOYER CONTRIBUTION TAX CREDIT	AUTOMATIC ENROLLMENT TAX CREDIT	ADDITIONAL NOTES
1-50 Employees	100% of Eligible Start-Up Costs for up to three tax years Lesser of $5,000 or $250 times the number of eligible Non-Highly Compensated Employees (as defined annually by the IRS), minimum Credit of $500 Must have at least one Non-Highly Compensated Employee	Up to 100% of Eligible employer contributions for the first two years, 75% in the third year, 50% in the fourth year, and 25% in the fifth year Lesser of actual employer contribution or $1,000 for each employee making $100,000 or less in FICA wages	$500/year for up to three tax years	Employer size is based on the number of employees who made at least $5,000 in the preceding year “Eligible Start-Up Costs” includes ordinary and necessary costs to setup and administer a new plan and educate employees about the plan. This might include document fees, compliance fees, and advisor fees
51-100 Employees	50% of Eligible Start-Up Costs for up to three tax years, capped at $5,000/year	Same as 1-50 employees minus 2% times the number of employees over 50 in the first two years, 1.5% times the number of employees over 50 in the third year, 1% times the number of employees over 50 in the fourth year, 0.5% times the number of employees over 50 in the fifth year	$500/year for up to three tax years	Same as 1-50 employees
Over 100 Employees	None	None	None	Same employee definition

This information is not intended to provide tax or legal advice. Please consult a tax or legal professional as necessary.

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Group Plan Summary

	Single-Employer Plan	DCG - DC Group of Plans	PEP - Pooled Employer Plan	OPEN MEP - Multiple Employer Plan	CLOSED MEP (NEXUS REQUIRED)
PLAN ROLES					
Plan Sponsor	Employer	Employer	PPP-Pooled Plan Provider	Delegated 402(a)	Association of Employers/PEO
Named/Legal Fiduciary - ERISA 402(a)	Plan Sponsor by Default - Delgation Possible	Delegated - Same for all Plans	PPP-Pooled Plan Provider	Delegated 402(a)	Plan Sponsor by Default - Delgation Possible
Plan Administrator - ERISA 3(16)	Plan Sponsor by Default - Delgation Possible	Delegated - Same for all Plans	Delegated	Delegated	Plan Sponsor by Default - Delgation Possible
Investment Fiduciary - ERISA 3(38)	Plan Sponsor by Default - Delgation Possible	Delegated - Same for all Plans	Delegated	Delegated	Plan Sponsor by Default - Delgation Possible
Institutional Trustee - ERISA 403(a)	Available	Delegated - Same for all Plans	Delegated	Delegated	Available
PLAN FEATURES					
Investment Menu	Flexible	Same for all Plans	Same for all Adopters	Same for all Adopters	Same for all Adopters
Plan Design	Flexible	Flexible	Significant - Discretion of Sponsor & Adopter	Significant - Discretion of Sponsor & Adopter	Significant - Discretion of Sponsor & Adopter
Annual Compliance Testing	Yes	Separate for each Plan	Separate for each Adopter	Separate for each Adopter	Separate for each Adopter
Form 5500	One	One for DCG	One for PEP	Separate for each Adopter	One for MEP
Annual Audit Requirement	100+ Participants with a balance	Separate Audit for each plan with 100+ Participants with a balance	Single Audit for PEP with 100+ Participants with a balance	Separate Audit for each plan with 100+ Participants with a balance	Single Audit for MEP with 100+ Participants with a balance
Ease of Entry or Exit	N/A	Easy	More Difficult	More Difficult	More Difficult
Ideal Sponsor/Adopter	Any Size	Fewer than 100 Participants	More than 100 Participants	Fewer than 100 Participants	Any Size
Cost	Individually Priced	Volume Pricing Possible	Volume Pricing Possible - Audit Cost Savings Likely	Volume Pricing Possible	Volume Pricing Possible - Audit Cost Savings Likely

This chart is provided as general guidance on the subject covered and is not intended to be authoritative or provide legal, tax or investment advice.

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Retirement Plan Comparison Chart

Feature	401(k)	Safe Harbor 401(k)	Solo 401(k)	Profit Sharing	403(b)	Cash Balance	SEP IRA	SIMPLE IRA
Basic plan type	Defined Contribution	Defined Contribution	Defined Contribution	Defined Contribution	Defined Contribution	Defined Benefit	IRA based	IRA based
Who generally adopts	Sole proprietorships, partnerships, limited liability companies, corporations, tax-exempt employers	Sole proprietorships, partnerships, limited liability companies, corporations, tax-exempt employers	Sole proprietorships, partnerships, limited liability companies and corporations with no common law employees	Sole proprietorships, partnerships, limited liability companies, corporations, tax-exempt employers	Tax-exempt Employers	Sole proprietorships, partnerships, limited liability companies, corporations, tax-exempt employers	Sole proprietorships, partnerships, limited liability companies, corporations, tax-exempt employers	Sole proprietorships, partnerships, limited liability companies, tax-exempt employers and corporations with 100 or fewer eligible employees
Can employer sponsor other qualified retirement plans	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Establishment deadline	By the last day of the plan year for which the plan is effective	Any date between January 1 and October 1; may not have an effective date that is before the date plan actually adopted	Plan sponsor tax-filing deadline, including extensions, profit sharing contributions only. Effective 2023, new plan sponsored by solo-proprietors may make first-year deferral contributions until tax-filing deadline	Plan sponsor tax-filing deadline, including extensions	By the last day of the plan year for which the plan is effective	Plan sponsor tax-filing deadline, including extensions	Plan sponsor tax-filing deadline, including extensions	Any date between January 1 and October 1; as soon as administratively feasible for businesses established after October 1st
Who can contribute	Employee and employer (optional)	Employee and employer (required)	Employee and employer (optional)	Employer (optional)	Employee and employer (optional)	Employer (required)	Employer (optional)	Employee and employer (required)

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Retirement Plan Comparison Chart

Feature	401(k)	Safe Harbor 401(k)	Solo 401(k)	Profit Sharing	403(b)	Cash Balance	SEP IRA	SIMPLE IRA
DOL reporting by Employer	Form 5500	Form 5500	Form 5500-EZ once plan assets exceed $250,000	Form 5500	Form 5500	Form 5500	None	None
Employee eligibility	Age requirement cannot exceed 21; service requirement cannot exceed one year; may exclude union employees and non-resident aliens	Age requirement cannot exceed 21; service requirement cannot exceed one year; may exclude union employees and non-resident aliens	To qualify as a Solo 401(k) plan covers only business owners and spouses of business owners	Age requirement cannot exceed 21; service requirement cannot exceed one year; two years if 100% vested; may exclude union employees and non-resident aliens	Immediate eligibility for Employee contributions; Employer contributions can be made subject to an Age requirement (cannot exceed 21) and service requirement (cannot exceed one year)	Age requirement cannot exceed 21; service requirement cannot exceed one year; may exclude union employees and non-resident aliens	Age requirement cannot exceed 21; have earned compensation in three of the past five years; received compensation of at least $800; may exclude union employees and non-resident aliens	All employees earning $5,000 for any past two years and is expected to do so in current year; no age limit permitted; may exclude union employees and resident aliens
Maximum employee deferral contribution	The lesser of $24,500 for 2026 or 100% of compensation	The lesser of $24,500 for 2026 or 100% of compensation	The lesser of $24,500 for 2026 or 100% of compensation	None	The lesser of $24,500 for 2026 or 100% of compensation	None	None	The lesser of $17,000 for 2026 or 100% of compensation
Catch-up contributions for those age 50 and older	$8,000 or $11,250 for ages 60-63 for 2026	$8,000 or $11,250 for ages 60-63 for 2026	$8,000 or $11,250 for ages 60-63 for 2026	None	$8,000 or $11,250 for ages 60-63 for 2026	None	None	$4,000 or $5,250 for ages 60-63 for 2026
ROTH contribution allowed	Employer Option	Employer Option	Employer Option	No	Employer Option	No	SECURE 2.0 permits, guidance needed	SECURE 2.0 permits, guidance needed
Participant Loans	Employer Option	Employer Option	Employer Option	Employer Option	Employer Option	Employer Option (not advised)	No	No
Hardship Distributions	Employer Option	Employer Option	Employer Option	Employer Option	Employer Option	No	No	No

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Retirement Plan Comparison Chart

Feature	401(k)	Safe Harbor 401(k)	Solo 401(k)	Profit Sharing	403(b)	Cash Balance	SEP IRA	SIMPLE IRA
Employer contributions	Discretionary; maximum tax deductible employer contribution is 25% of eligible payroll; overall maximum contribution per eligible employee is 100% of compensation not to exceed $72,000	Required match of 100% on the first 3% of employee deferral plus 50% on the next 2% of employee deferral **OR** 3% of compensation to all eligible employees **OR** QACA Match equals 100% on the first 1% plus 50% on the next 5% deferred.	Discretionary; maximum tax deductible employer contribution is 25% of eligible payroll; overall maximum contribution per eligible employee is 100% of compensation not to exceed $72,000	Discretionary; maximum tax deductible employer contribution is 25% of eligible payroll; overall maximum contribution per eligible employee is 100% of compensation not to exceed $72,000	Discretionary; maximum tax deductible employer contribution is 25% of eligible payroll; overall maximum contribution per eligible employee is 100% of compensation not to exceed $72,000	Amount required to fund promised retirement benefit	Discretionary; maximum tax deductible employer contribution is 25% of eligible payroll; overall maximum contribution per eligible employee is 100% of compensation not to exceed $72,000	Required match of 100% on the first 3% of employee's compensation (may be reduced to 1% in 2 of any 5 years) **OR** 2% of compensation to all eligible employees
Maximum vesting on Employer contributions	3-year cliff or 6-year graded	Immediate - Safe Harbor contributions only	3-year cliff or 6-year graded	3-year cliff or 6-year graded	3-year cliff or 6-year graded	3-year cliff	Immediate	Immediate

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About Us

OUR MISSION

Our mission is to expand the coverage and quality of workplace retirement plans for all American workers.

OUR VALUES

Servant Leadership – Selflessly always serve others.
Exceptional Client Service – Show our clients that we care.
Integrity – Honesty is more important than money.
Innovation – Constantly evolving.
Education – Always seeking knowledge.
Community – Giving back to improve others' lives.

OUR WORK

We partner with employers and financial professionals to custom-design plans that meet business objectives while controlling costs. Our team of experienced compliance consultants ensures your plan meets DOL and IRS regulations. In addition, we offer industry-leading fiduciary solutions that save time, mitigate risk, and improve participant outcomes.

OUR RESULTS

InWest has achieved a 10-year average annual client retention rate of 97.5%*

*Average retention 2016-2025, net of plan terminations

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